

### REMARKS

In the August 10, 2004 Office Action, claims 1-6 and 8-11 stand rejected in view of prior art, while claims 12-13 were indicated as being allowed and claim 7 as containing allowable subject matter. No other objections or rejections were made in the Office Action.

#### *Status of Claims and Amendments*

In response to the August 10, 2004 Office Action, Applicants have amended the specification and claims 8, 11, and 12 as indicated above. Applicants wish to thank the Examiner for the indication of allowance and allowable subject matter, and the thorough examination of this application. Thus, claims 1-13 are pending, with claims 1, 8, 12 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

#### *Specification*

Applicants have found a few typographical and grammatical errors upon review of the specification. Accordingly, Applicants have amended the specification to correct these errors. Applicants have also amended the specification to define the “front” direction of the bag manufacturing and packaging apparatus even more clearly.

Applicants believe that the specification is now correct and complies with 37 CFR §1.71 and 37 CFR §1.75(d)(1).

#### *Rejections - 35 U.S.C. § 102*

In paragraphs 2-3 of the Office Action, claims 1-4 and 8-11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,864,895 to Petrea (“Petrea patent”). In response, Applicants respectfully traverse the rejections of claims 1-4, and have amended independent claim 8 to clearly define the present invention over the prior art of record.

#### Claim 1

Applicants believe that the Petrea patent does not disclose or suggest the arrangement of claim 1 because the Petrea patent does not disclose the transfer mechanism that transfers bags *diagonally downward*. The Office Action asserts that the arms 22 of the Petrea patent correspond to the transfer mechanism of the present application. Applicants believe, however, that the arms 22 of the Petrea patent do *not* transfer the bags diagonally downward as required by claim 1.

More specifically, Applicants believe that the arms 22 of the Petrea patent transfer the bags horizontally, rather than diagonally downward as required by claim 1. The arms 22 of the Petrea patent are a part of the transfer turret 14, as described in column 2, lines 23-32 and shown in Figure 1. The arms 22 are mounted on the rotary structures 26, which rotate about the shaft 18. As the rotary structures 26 rotate about the shaft 18, the sprocket chain 30 ***holds the arms 22 in the same orientation.*** (Column 2, lines 28-30. Emphasis added.)

Furthermore, after the suction cup 32 of the arms 22 grasps and holds the bag 12, the turret 14 is rotated. Once the bag 12 reaches the securing section 34, the bag 12 is adhered to a backing sheet 36. When the bag 12 is transferred from the filling and forming machine to the securing station 34, ***the bag 12 does not change the orientation.*** (Column 2, lines 45-51. Emphasis added.) Thus, since both the arms 22 and the bag 12 maintain their orientations while the arms 22 transfer the bag 12 on the turret 14, it is clearly understood from the disclosure of the Petrea patent that the transfer mechanism of the Petrea patent transfers the bag 12 ***horizontally, not diagonally downward*** as required by claim 1. Thus, the Petrea patent does not disclose the arrangement of claim 1 as originally filed.

#### Claim 8

In response to the Office Action, Applicants have amended claim 8 as presented above. More specifically, claim 8 as now amended clearly requires that the fixing position be positioned downward and offset in the front-rear direction relative to the release position. Clearly, the Petrea patent does not anticipate or suggest the arrangement of claim 8 as now amended.

More specifically, Applicants believe the interpretation of the release position in the Office Action is inconsistent with the definition of the release position in claim 8 as originally filed. The Office Action asserts that the release position is the position at which ***the bag is transferred to the fixing mechanism 34.*** However, claim 8 as originally filed and as now amended clearly define the release position as the position at which ***the pair of sealing members of the bag manufacturing unit releases*** the ends of a bag. Thus, Applicants believe that the interpretation of the release position of the Office Action is inconsistent with its definition in claim 8.

Furthermore, Applicants believe that the Petrea patent does not show the fixing position that is downward and offset in the front-rear direction relative to the release position,

regardless of how the release position is interpreted. Although it is not clear from the Office Action which position within the structure of the Petrea patent the Office Action considers to be the fixing position, the fixing position and the release position of the Petrea patent must be positioned on the same horizontal plane. The fixing position as defined in claim 8 is the position at which the bag is attached to the strip. In the structure of the Petrea patent, the bag 12 is attached to the backing sheet 36 while the suction cup 32 still grasps the bag 12 (Figure 1). Thus, the position at which the bag 12 is transferred to the fixing mechanism 34, which is interpreted as the release position in the Office Action, *is* the fixing position. In other words, the fixing position is *not* positioned downward or offset relative to the release position, according to the interpretation of the release position of the Office Action.

Furthermore, the Petrea patent does not show or suggest the fixing position that is downward and offset in the front-rear direction relative to the release position, even when the release position is interpreted according to claim 8. As described above, claim 8 defines the release position as the position at which the sealing members release the bag. In the structure of the Petrea patent, the release position according to claim 8 is the position at which the arms 22 receive the bag 12 from the bag forming and filling apparatus 2. *See* Figure 1 and description of the sealing jaw 10 in column 2, lines 6-20. In this case also, the fixing position is still *not* positioned downward offset in the front-rear direction relative to the release position, because the turret 14 transfers the bag 12 horizontally as described above. In other words, the release position (the origin of the movement of the bag 12 as transferred by the turret 14) and the fixing position (the destination of the movement of the bag 12 as transferred by the turret 14) must be on the same horizontal plane. Thus, the Petrea patent does not disclose the arrangement of claim 8 as now amended.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicants respectfully submit that claims 1 and 8, as originally presented and as now amended, are not anticipated by the prior art of record. Withdrawal of these rejections is respectfully requested.

Moreover, Applicants believe that dependent claims 2-6 and 9-11 are also allowable over the prior art of record in that they depend from independent claims 1 and 8, and therefore are allowable for the reasons stated above. Thus, Applicants believe that since the

prior art of record does not anticipate the independent claims 1 and 8, neither does the prior art anticipate the dependent claims.

Applicants respectfully request withdrawal of the rejections.

***Rejections - 35 U.S.C. § 103***

In paragraphs 4-5 of the Office Action, claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Petrea patent in view of U.S. Patent No. 6,726,794 to Belt ("Belt patent"). Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Petrea patent in view of U.S. Patent No. 4,415,127 to Seragnoli ("Seragnoli patent"). In response, Applicants respectfully traverse the rejections.

More specifically, Applicants believe that the Petrea patent, the Belt patent, and the Seragnoli patent do not anticipate or suggest the arrangement of claims 5-6, because the Petrea patent, the Belt patent, and the Seragnoli patent do not anticipate or suggest the arrangement of claim 1 as originally filed.

Discussion of the Petrea patent is presented above. Applicants believe that the Petrea patent does not disclose or suggest the arrangement of claim 1.

Regarding the Belt patent, it is cited in the Office Action to show a strip transport unit that transports a plurality of strips to the fixing mechanism. As seen in Figures 1-4 of the Belt patent, the transfer mechanism transfers the bags horizontally, rather than diagonally downward as required by claim 1. Thus, the Belt patent does not anticipate or suggest the arrangement of claim 1, whether taken singularly or in combination with the Petrea patent.

The Seragnoli patent is cited in the Office Action to show a means for signaling depletion of the strip material from the reel supply. The Seragnoli patent clearly does not show or suggest a transfer mechanism that transfers bags downward. Thus, the Seragnoli patent does not anticipate or suggest the arrangement of claim 1, whether taken singularly or in combination with the Belt patent and the Petrea patent.

In view of the above comments, the Petrea patent, the Belt patent, and the Seragnoli patent do not anticipate or suggest the arrangement of claim 1. Since claims 5-6 are dependent from claim 1, Applicants believe that claims 5-6 are also not anticipated or suggested by the prior art of record.

Therefore, Applicants respectfully request that these rejections be withdrawn in view of the above comments.

***Allowable Subject Matter***

In paragraphs 7-8 of the Office Action, claim 12-13 stand indicated as allowed and claim 7 is indicated as containing allowable subject matter. Applicants wish to thank the Examiner for the indication of allowance and allowable subject matter, and the thorough examination of this application. In response, Applicants have amended claim 12 to correct the grammatical errors that Applicants found upon review of the claim. Claim 7 still remains dependent on claim 1, which Applicants believe is allowable over the prior art of record. Thus, Applicants believe that claims 7 and 12-13 are now in condition for allowance.

***Prior Art Citation***


In the Office Action, the U.S. Patent No. 4,415,127 to Seragnoli was not listed in the Notice of References Cited. Applicants respectfully request that the Seragnoli patent be included in the Notice of References Cited.

In the Office Action, additional prior art references are made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-13 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

  
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